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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,288	03/27/2001	Yoshitake Shinkai	826.1718	7742

21171 7590 07/12/2006

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1201 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER
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LESNIEWSKI, VICTOR D

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/817,288		SHINKAI ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Victor Lesniewski		2152	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8,10-12,14 and 16-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10-12,14 and 16-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The amendment filed 4/20/2006 has been placed of record in the file.
2. No claims have been amended.
3. Claims 1-8, 10-12, 14, and 16-28 are now pending.
4. The applicant's arguments with respect to claims 1-8, 10-12, 14, and 16-28 have been fully considered but they are not persuasive. A detailed discussion is set forth below.

### ***Claim Rejections - 35 USC § 103***

5. Claims 1-3, 8, 10-12, 14, 23, 25, 27, and 28 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Slaughter et al. (U.S. Patent Number 5,964,886), hereinafter referred to as Slaughter, in view of Loucks et al. (U.S. Patent Number 5,634,122), hereinafter referred to as Loucks, as presented in the previous action dated 12/20/2005.
6. Claims 4-7, 16-22, 24, and 26 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Slaughter in view of Loucks further in view of Tavares et al. (U.S. Patent Number 5,515,537), hereinafter referred to as Tavares, as presented in the previous action dated 12/20/2005.

### ***Response to Arguments***

7. In the remarks, the applicant has argued:
  - <Argument 1>  
The combination of Slaughter and Loucks does not disclose the features of claim 1 because it does not disclose "asking said first token managing portion to acquire the

access permission against the access request, and asking the permitted node that has update permission for the file to access to the file when said first token managing portion is not capable of acquiring the access permission” as recited in claim 1.

8. In response to argument 1, the combination of Slaughter and Loucks does disclose the asking steps as recited in claim 1. The previous line citation to Slaughter, column 9, lines 27-35, clearly states that Slaughter’s system sends the data access request to a second node when the first node is not active. The previous line citation to Slaughter, column 10, lines 16-28, further describes the processing of the data access request while the previous line citation to Slaughter, column 8, lines 13-26, shows the maintenance of a list of active nodes in the system. In terms of claim 1, Slaughter’s primary node handles the data access request when active (meaning “access request taking place in the first node”). The node is active when it has membership information for the cluster (meaning the node is permitted in the cluster and is capable of accessing the data). When the primary node is not active (meaning “not capable of acquiring the access permission”), the data access request is routed to a secondary node which is active (meaning “asking the permitted node to access to the file”).

9. Regarding the token managing of claim 1, Loucks teaches token management in an analogous data access system. From the remarks, the examiner gets the sense that the applicant is interpreting the claim language of claim 1 to have some further involvement with tokens or token management. However, it is unclear from claim 1 exactly how any tokens or the token managing portions are related to the claimed access permissions. If the applicant believes that “the present invention and Loucks are completely different from one another in the way permission to access shared data is granted” as stated in the remarks, then the applicant may

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want to consider clarifying the functionality of the token managing portions in the claim. For example, the applicant seems to align “update permission” to a write token in the remarks, but this is not clear in the claims. Currently, the statements of “capable” or “not capable” of accessing the data in the claims are related to Slaughter’s system in which a node is active or not active, and thus has or doesn’t have membership information which would allow that node access to the data.

10. The applicant is reminded that the rejection is based on the combination of Slaughter and Loucks and that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The lines cited to Slaughter in the previous action have not been discussed by the applicant in the remarks. Thus, it is difficult to tell why the applicant believes the claims are distinguished over the combination of Slaughter and Loucks.

11. In addition, the applicant has argued that claims rejected under 35 U.S.C. 103, but not explicitly discussed, are allowable based on the above arguments. Thus, claims disclosing similar limitations to the discussed claims and related dependent claims remain rejected under the same reasoning as presented above.

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** The applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.

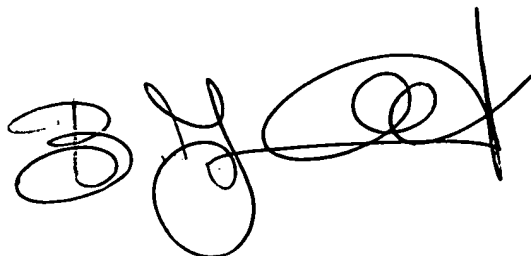
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Lesniewski  
Patent Examiner  
Group Art Unit 2152



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